

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE  
STATE OF CALIFORNIA



**FILED**  
08/19/19  
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COMMISSIONER CLIFFORD RECHTSCHAFFEN and  
ADMINISTRATIVE LAW JUDGE DARCIE HOUCK, co-presiding

	)	PREHEARING
	)	CONFERENCE
	)	
Order Instituting Investigation on	)	
the Commission's Own Motion into the	)	
Maintenance, Operations and	)	
Practices of Pacific Gas and	)	
Electric Company (U39E) with Respect	)	Investigation
to its Electric Facilities; and	)	19-06-015
Order to Show Cause Why the	)	
Commission Should not Impose	)	
Penalties and/or Other Remedies for	)	
the Role PG&E's Electrical	)	
Facilities had in Igniting Fires in	)	
its Service Territory in 2017.	)	

REPORTER'S TRANSCRIPT  
San Francisco, California  
August 13, 2019  
Pages 1 - 40  
PHC

Reported by: Ana M. Gonzalez, CSR No. 11320

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I N D E X

PARTY STATUS GRANTED

Public Advocates Office	7
The Utility Reform Network	7
Coalition of California Utility Employees	7
Western States Petroleum Association	10

1                   SAN FRANCISCO, CALIFORNIA  
2                   AUGUST 13, 2019 - 1:30 P.M.

3                               \*   \*   \*   \*   \*

4                   ADMINISTRATIVE LAW JUDGE HOUCK: On the  
5 record.

6                   The Commission will come order.  
7 This is the time and place for the prehearing  
8 conference in the Order Instituting  
9 Investigation on the Commission's Own Motion  
10 Into the Maintenance, Operations and  
11 Practices of Pacific Gas and Electric  
12 Company, with Respect to Its Electric  
13 Facilities, and Order to Show Cause Why the  
14 Commission Should Not Impose Penalties and/or  
15 Other Remedies for the Role PG&E's Electrical  
16 Facilities had in Igniting Fires in their  
17 Service Territory in 2017. The Order  
18 Instituting Investigation, or I'll refer to  
19 it as the "OII," is Application 19-06-015.

20                   I'm the Administrative Law Judge  
21 assigned to this proceeding. My name is  
22 Darcie Houck. The assigned Commissioner is  
23 Commissioner Rechtschaffen to my left.

24                   I'm going to walk through the agenda  
25 for today's hearing, and turn it over to  
26 Commissioner Rechtschaffen for opening  
27 remarks and then we will go to other items on  
28 the agenda.

1           After Commissioner Rechtschaffen's  
2 opening comments, we will deal with motions  
3 for Party Status, the yellow forms that folks  
4 have filled out. And I will ask people that  
5 want to be on the service list as either  
6 Information Only or Requesting Party Status,  
7 that have not yet filled out a yellow form,  
8 to do that. And we will go off the record at  
9 that time as well. We will then discuss the  
10 scope of the proceeding, parties' comments on  
11 the preliminary scoping memo and the  
12 schedule.

13           We did note in the notice for this  
14 hearing that PG&E's bankruptcy and AB 1054  
15 may be applicable to scope and the schedule.  
16 So I would just ask that to the extent your  
17 comments address the scope, discuss them when  
18 we are talking about the scope. And to the  
19 extent they address the schedule, we can talk  
20 about it when we address the schedule.

21           So first I'm going to turn it over  
22 to Commissioner Rechtschaffen.

23           COMMISSIONER RECHTSCHAFFEN: Thank you  
24 very much, Judge Houck.

25           I wanted to say a couple of things  
26 quickly at the start. Obviously, this case  
27 is very important in its own right. It  
28 raises fundamental issues of public health

1 and safety that are critical to the State, to  
2 PG&E and its ratepayers.

3 But as Judge Houck mentioned, we  
4 have the overlay of AB 1054 now, which  
5 creates very strong incentives for PG&E to  
6 emerge from bankruptcy by next June. The  
7 issues that arise in this proceeding will  
8 have to be resolved as part of any kind of  
9 bankruptcy settlement. It is, therefore, in  
10 the interest of all the parties here, as well  
11 as other stakeholders in the State, in  
12 general, to have these matters resolved  
13 quickly.

14 As Judge Houck walks you through  
15 today, you are going to hear at various  
16 points our strong interest to try to  
17 expeditiously move forward. That is going to  
18 include ideas for settlement talks early on,  
19 opportunities to narrow legal issues, to  
20 stipulate about factual issues, and so forth,  
21 so that we can really move this forward as  
22 expeditiously as possible.

23 I recognize that a lot of the  
24 parties here are involved in many other  
25 safety proceedings relating to PG&E, and  
26 otherwise, many of them wildfire-related  
27 proceedings. It is a very difficult  
28 schedule. We respect that. But we also are

1 faced with an unprecedented situation, and we  
2 need to move forward quickly. Thank you.

3 ALJ HOUCK: So now we will discuss the  
4 Service List and Party Status. So PG&E is  
5 the Respondent as a Party. The Commission's  
6 Safety and Enforcement Division, or SED, is  
7 the investigatory arm for the Commission and  
8 also a Party to the proceeding in an advocacy  
9 role. This means that they are a Party like  
10 other parties, and the Commission's ex parte  
11 rules will apply to them in the proceeding.  
12 I want to make that clear, that they are an  
13 advocate Party. They are not a decision  
14 maker or advising decision makers in the  
15 proceeding.

16 Additionally, we've had motions for  
17 Party Status filed by the Commission's Public  
18 Advocates Office, and The Utility Reform  
19 Network, Coalition of California -- the  
20 Coalition of California Utility Employees.

21 Is there any objection to Party  
22 Status being granted?

23 MR. HILL: No objection from PG&E, your  
24 Honor.

25 MR. SHER: Not from SED.

26 ALJ HOUCK: Party Status will be  
27 granted to the Public Advocates Office, TURN  
28 and the Coalition of California Utility

1 Employees.

2 (Public Advocates Office was granted  
3 Party Status.)

4 (The Utility Reform Network was  
5 granted Party Status.)

6 (Coalition of California Utility  
7 Employees was granted Party Status.)

8 ALJ HOUCK: We have some yellow forms.

9 And then, again, I don't see anyone filling  
10 out forms, so I'm going to go forward with  
11 the ones that we have.

12 We have the Center for Accessible  
13 Technology has submitted a form for Party  
14 Status in the proceeding. So who is -- is  
15 Melissa --

16 MR. SLIPSKI: Adrian Slipski is my  
17 name. I'm not on there, but...

18 ALJ HOUCK: Who would be the person?

19 MR. SLIPSKI: Melissa.

20 ALJ HOUCK: To the extent that you are  
21 requesting Party Status, what is your planned  
22 participation in the proceeding?

23 MR. SLIPSKI: The Center for Accessible  
24 Technology represents people with  
25 disabilities and low-income customers. And  
26 to the extent that their safety is  
27 particularly -- comes into question in issues  
28 of PG&E's safety practices, we would like to

1 represent their interests in the proceeding.

2 ALJ HOUCK: Are you planning to sponsor  
3 any witnesses or participate in negotiations  
4 or make legal arguments?

5 MR. SLIPSKI: Not at this time.

6 ALJ HOUCK: At this time, unless the  
7 commissioner has an objection, it might be  
8 more appropriate to be Information Only,  
9 unless you want to actively participate in  
10 the proceeding.

11 MR. SLIPSKI: Sure.

12 ALJ HOUCK: Then we have the City and  
13 County of San Francisco. It is William  
14 Rosser?

15 MR. ROSTOV: Rostov.

16 Good afternoon, your Honor,  
17 Commissioner. The City and County of San  
18 Francisco has three main interests in this  
19 proceeding. We have a community choice  
20 aggregator called --

21 THE REPORTER: I'm sorry, MPower?  
22 (Record read.)

23 MR. ROSTOV: -- clean Power SF that we  
24 operate. We also have a publicly owned  
25 utility that could be affected by wildfires.  
26 We also advocate for the energy customers  
27 within the city of San Francisco. So we  
28 represent all those interests, even if they



1 are bundled ratepayers of PG&E.

2 We plan on participating in this  
3 proceeding. We don't know the extent of our  
4 participation yet. It kind of depends on the  
5 schedule and other issues.

6 ALJ HOUCK: At this point you are not  
7 planning to present witnesses or file briefs?

8 MR. ROSTOV: We might file briefs, but  
9 we don't know about witnesses.

10 ALJ HOUCK: You do intend to file  
11 briefs?

12 MR. ROSTOV: I'm not sure, at this  
13 point.

14 ALJ HOUCK: Would it be more  
15 appropriate for it to be Information Only  
16 until you have a better understanding of how  
17 you want to participate?

18 MR. ROSTOV: We would prefer to be a  
19 Party, if it is possible. If you want to  
20 make us Information Only, that is fine as  
21 well.

22 ALJ HOUCK: At this point, I will mark  
23 it Information Only. But to the extent I  
24 see...

25 MR. ROSTOV: I think it is easier for  
26 us to be Party Status. It will give us the  
27 opportunity to participate when issues arise.  
28 If it is going to be a fast-moving

1 proceeding, we would like the opportunity to  
2 file briefs, as needed.

3 ALJ HOUCK: I'm going to take that  
4 under submission, and then we will issue a  
5 ruling on that either shortly after the  
6 prehearing conference or in the scoping memo.

7 MR. ROSTOV: Thank you.

8 ALJ HOUCK: Then we've got Western  
9 States Petroleum Association, Michael  
10 Alcantar.

11 MS. RAFII: Yes, Lillian Rafii,  
12 R-a-f-i-i, standing in for Michael Alcantar,  
13 A-l-c-a-n-t-a-r.

14 For the Western States Petroleum  
15 Association, or WSPA, we intend to  
16 participate actively. I'm unsure about  
17 sponsoring witnesses, but we intend to file  
18 briefing and comments.

19 ALJ HOUCK: Is there anyone that  
20 objects to Western States Petroleum being a  
21 Party?

22 MR. HILL: No objection.

23 MR. SHER: None, your Honor.

24 ALJ HOUCK: Seeing no objection, we  
25 will go ahead and grant Party Status.

26 (Western States Petroleum  
27 Association was granted Party  
28 Status.)

1 MS. RAFII: Thank you.

2 ALJ HOUCK: Then I've got Karen Mills  
3 for the California Farm Bureau as Information  
4 Only for the service list.

5 MS. MILLER: Yes, your Honor.

6 ALJ HOUCK: I do want to remind  
7 everyone that this is an official hearing  
8 with a court reporter, so the transcript is  
9 being taken. And so I would ask that if you  
10 don't have a name tag in front of you, to  
11 make sure to state your name so the court  
12 reporter can accurately take down the record.  
13 And to speak at a moderate speed, loud enough  
14 for the court reporter to hear you so that we  
15 can get an accurate transcript for the  
16 proceeding. And if you don't say your name  
17 and don't have a name tag, we may cut you  
18 off. It is not being rude, we just want to  
19 make sure we've got an accurate record.

20 I also want to inform parties that  
21 may be seeking intervenor compensation that  
22 to seek an award of compensation pursuant to  
23 Public Utilities Code Section 1801 to 1812,  
24 you should file and serve a notice of intent  
25 to claim compensation no later than 30 days  
26 after this prehearing conference.

27 If anyone has any questions about  
28 how to participate in the proceeding, either

1 formally, informally, or to present public  
2 comments, you can contact our Public  
3 Advisor's office. Information on contacting  
4 the Public Advisor is on our website, and the  
5 email is public.advisor@cpuc.ca.gov.

6 With that, we will go into the  
7 discussion of the scope of the proceeding.  
8 Both SED and PG&E filed a Joint Prehearing  
9 Conference Statement outlining their  
10 positions. And there were a number of legal  
11 and factual issues in dispute that were  
12 listed. And also, as we mentioned before, we  
13 have the implications of the bankruptcy in AB  
14 1054. So we would like to hear from the  
15 parties to the preliminary scope and how to  
16 proceed.

17 Additionally, there may be some  
18 issues that are disputed, the legal issues in  
19 dispute that may be able to be dealt with in  
20 briefing upfront to move forward at least  
21 some of those issues. So we would like to  
22 hear from the parties on whether you believe  
23 that some of those issues could be briefed  
24 sooner rather than later, and which issues,  
25 and what the potential timing would be, as we  
26 can get into the schedule.

27 The other issue we would also like  
28 to hear from the parties, I believe that you

1 mentioned you were both open to settlement  
2 discussions, and the Commissioner referenced  
3 that. So we would like to hear if the  
4 parties are in discussions, if formal  
5 settlement may be of help to the parties and  
6 what the parties' positions are on moving  
7 forward with resolving those issues. As well  
8 as the other issues, stipulation of facts,  
9 which facts could be stipulated to, and which  
10 ones will remain in dispute.

11 With that, we can start with PG&E.

12 MR. HILL: Thank you, your Honor; and  
13 thank you, Commissioner, for your opening  
14 remarks.

15 Many of the issues that we like to  
16 address touch both scope and schedule. But  
17 pursuant to your Honor's initial direction,  
18 I'll start first with those that are within  
19 the scope, response to the preliminary scope  
20 of the proceeding.

21 We agree with the Commissioner and  
22 your Honor that the parties have to be  
23 mindful of AB 1054 and the need for PG&E to  
24 emerge from bankruptcy well in advance of  
25 June 30, 2020. We think that is in the  
26 interest of the ratepayers, it is in the  
27 interest of the communities that we serve  
28 that this proceeding be resolved as quickly

1 and as efficiently as possible.

2 For that reason, in response to the  
3 scope of the proceeding, we have set forward  
4 in our prehearing conference statement that  
5 it is our belief that systemic issues ought  
6 to be excluded from this proceeding.

7 In the OII there is Attachment A and  
8 Attachment B. I'll use those for shorthand.  
9 Attachment A goes to specific fires with  
10 specific allegations, specific alleged  
11 violations. Attachment B addresses wide  
12 ranging, very broad systemic issues related  
13 to PG&E's electric facilities. To resolve  
14 the systemic issues that are raised in the  
15 OII cannot reasonably be done in the time  
16 allotted by AB 1054.

17 In addition, those systemic issues  
18 are already being reviewed in connection with  
19 the Wildfire Safety Plan that PG&E submitted.  
20 That Wildfire Safety Plan in SB 901 requires  
21 PG&E to look at the lessons learned from past  
22 events, implement corrective issues, which  
23 are all well under way.

24 We've had some preliminary  
25 discussions with SED about the exclusion of  
26 the systematic issues from the OII. It is  
27 our understanding that SED does not agree  
28 with that scope. But consistent with the

1 Commissioner's opening comments and your  
2 Honor's direction, it is our belief that in  
3 order to resolve this OII expeditiously by  
4 the deadline set forth in AB 1054, that we  
5 should exclude those systemic issues from  
6 this proceeding.

7 ALJ HOUCK: I just want to be clear, we  
8 did not give an opinion on that issue.

9 MR. HILL: Yes, your Honor.

10 So with respect to an issue that is  
11 directly as to scope, it would be the two  
12 specific issues.

13 In terms of your Honor's question  
14 regarding the briefing of legal issues  
15 upfront, that is something we have not  
16 previously discussed with SED or other  
17 parties. But we do believe that there  
18 probably is a schedule that we can meet and  
19 confer on to accomplish briefing of legal  
20 issues at the outset of the proceeding. That  
21 is a real good idea. We are happy to meet  
22 and confer with SED and other interested  
23 parties on that approach.

24 Lastly, the settlement discussions.  
25 The parties are engaged in settlement  
26 discussions. We do believe there is an  
27 impact on the schedule to allow sufficient  
28 time for those discussions to ripen and

1 progress. And based on a meeting this  
2 morning, the parties would jointly seek time  
3 until September 30th to allow those  
4 discussions to continue, see if we can make  
5 progress towards a negotiated resolution to  
6 the proceeding.

7 COMMISSIONER RECHTSCHAFFEN: You mean  
8 you want to keep talking between now and  
9 September 30th? You are not saying you want  
10 to pause until September 30th?

11 MR. HILL: We keep talking until  
12 September.

13 COMMISSIONER RECHTSCHAFFEN: What is  
14 your schedule right now? Do you have a  
15 schedule, or SED and you met this morning?

16 MR. HILL: That is correct, your  
17 Honor -- Commissioner.

18 COMMISSIONER RECHTSCHAFFEN: And what  
19 is next?

20 MR. HILL: We have a meeting scheduled  
21 for next Monday to continue those  
22 discussions.

23 MS. MORSONY: Your Honor, Commissioner,  
24 I just wanted to make a point that only SED  
25 and PG&E were parties before this afternoon.  
26 So I assume those were the only parties in  
27 settlement. So we would hope that other  
28 parties, like TURN, would be included in the



1 Monday discussion and beyond.

2 ALJ HOUCK: You will have an  
3 opportunity to make comments in just a  
4 moment. Let's let each party go. And you  
5 will be able to talk with SED and PG&E  
6 afterwards to coordinate. But all parties  
7 should be included in settlement discussions.

8 MR. HILL: In terms of schedule, we  
9 would propose a stay of any discovery until  
10 at least September 30 to allow for these  
11 discussions to continue. Your Honor  
12 suggested earlier briefing of legal issues,  
13 there is one we hadn't considered previously  
14 in the context of these discussions. We can  
15 meet and confer with SED and other parties as  
16 to how that might interact with the proposed  
17 settlement talks.

18 ALJ HOUCK: And have you discussed  
19 whether you could come up with a stipulation  
20 or partial stipulation of facts?

21 MR. HILL: We haven't had a discussion  
22 as to a set of stipulated facts. Now that  
23 material facts in dispute, that are  
24 enumerated in the prehearing conference  
25 statement are clearly just a subset of the  
26 many facts that are alleged in the OII. It  
27 is possible that we could meet and confer and  
28 determine whether there are material facts

1 that we could stipulate to. We haven't yet  
2 had those discussions.

3 ALJ HOUCK: Thank you. Mr. Sher.

4 MR. SHER: Good afternoon, your Honor,  
5 good afternoon, Commissioner.

6 With regard to systemic issues, SED  
7 has been reviewing PG&E's submission and, in  
8 all likelihood, would seek additional time to  
9 comment on PG&E's filing.

10 We do understand PG&E's desire to  
11 exit from bankruptcy by June 30th. It would  
12 seem though that systemic issues would need  
13 to be addressed as part of that bankruptcy as  
14 well. So at some point, systemic issues will  
15 need to be addressed before the June nexus on  
16 bankruptcy. This proceeding may not be the  
17 proceeding, but we will need to find a place  
18 to address those systemic issues.

19 With regards to briefing, SED has  
20 limited legal resources at this moment and  
21 would rather focus on trying to settle the  
22 case and address other issues than submit  
23 briefs at this point in time.

24 SED has met twice with PG&E with  
25 regards to settlement. And as counsel for  
26 PG&E stated, we are meeting next week again.  
27 We are happy to meet with other parties, but  
28 at this point bilateral negotiations are what

1 we are considering with PG&E.

2 One other issue that arose, that has  
3 arisen. My understanding and, PG&E correct  
4 me on this, PG&E is seeking legislation to  
5 issue bonds. That legislation would have to  
6 be at least, I believe, come out of the  
7 current legislative session which ends  
8 September 13th, which is why we are  
9 requesting the September 30th date to  
10 continue settlement discussion.

11 COMMISSIONER RECHTSCHAFFEN: What is  
12 the relevance of that legislation here?

13 MR. SHER: It impacts how and what we  
14 settle on. If PG&E is successful in  
15 obtaining the legislation that allows it to  
16 issue bonds, that will impact negotiations in  
17 one way. If PG&E is unsuccessful, it impacts  
18 negotiations in another way. Please correct  
19 me if I'm wrong.

20 MR. HILL: That is accurate, your  
21 Honor.

22 COMMISSIONER RECHTSCHAFFEN: We will  
23 know in?

24 MR. SHER: In a month.

25 COMMISSIONER RECHTSCHAFFEN: In a  
26 month, or less. Okay.

27 ALJ HOUCK: And Mr. Sher, you had  
28 referenced in the status conference that you

1 may be seeking to include the Lobo Fire,  
2 McCourtney Fire and Camp Fire in this  
3 proceeding. Could you provide an update on  
4 where SED is with that?

5 MR. SHER: Thank you, your Honor, for  
6 reminding me.

7 With regards to Lobo and McCourtney,  
8 my understanding is we have submitted our  
9 reports to CAL FIRE to make certain we are  
10 not going to publicize confidential  
11 information.

12 With regards to Camp Fire, SED has  
13 not finished its report at this point in  
14 time, but is hoping to get at least a summary  
15 of the facts together so that we can try and  
16 stipulate to facts with PG&E to have that  
17 case brought into this proceeding, again,  
18 with the bankruptcy in 1054 sort of looming  
19 over us.

20 ALJ HOUCK: What's the timing on that?

21 MR. SHER: We should be able to submit  
22 those, Lobo, McCourtney and 2018, assuming we  
23 can agree with PG&E on stipulated facts with  
24 regard to 2018 Camp Fire, prior to  
25 September 30th. We would submit a motion to  
26 your Honor to include those in this  
27 proceeding.

28 COMMISSIONER RECHTSCHAFFEN: But just

1 the facts for Camp Fire? You wouldn't have a  
2 report or any allegations?

3 MR. SHER: At this point in time it  
4 would be facts. If we can, we shall.

5 MR. HILL: Your Honor, if I could  
6 follow-up on that, on that last statement.  
7 We are in a posture now where the OII could  
8 possibly be getting larger. We are  
9 attempting to narrow the issues and resolve  
10 this expeditiously. We would submit that is  
11 an additional reason to exclude the systemic  
12 issues. In response to Mr. Sher's comment  
13 about the systemic issues need to be  
14 addressed, we agree with that. PG&E  
15 actually agrees that --

16 ALJ HOUCK: I'm going to ask you to  
17 hold on a second. Let's let the other  
18 parties make their comments, and you will  
19 have a chance to respond to everybody.

20 MR. HILL: Absolutely, thank you.

21 ALJ HOUCK: Thank you. TURN.

22 MS. MORSONY: Katy Morsony on behalf of  
23 TURN.

24 First, I would like to express,  
25 again, we look forward to being included in  
26 the future settlement negotiations.

27 Second, I would like to speak to the  
28 idea of systemic issues. We agree with SED

1 that it is important to keep them in the  
2 scope here. We don't want anything that  
3 limits the potential remedies on -- to those  
4 systemic issues because the scope has been  
5 limited to keep them out.

6 COMMISSIONER RECHTSCHAFFEN: There are  
7 seats in here if folks don't want to stand.  
8 Or if you want to make it seem like it is a  
9 standing-room-only crowd, that is fine.

10 (Laughter.)

11 ALJ HOUCK: Thank you.

12 Public Advocates Office.

13 MS. LEE: Public Advocates Office  
14 recognizes the importance of trying to  
15 resolve this proceeding quickly, given the  
16 legislation, AB 1054 and the bankruptcy. But  
17 the Commission's investigation shouldn't be  
18 at the expense of those factors, shouldn't be  
19 at the expense of thoroughly reviewing the  
20 tragic events that resulted in 22 deaths.  
21 And I guess if you count the Camp Fire, it is  
22 even more.

23 We agree that the Commission should  
24 consider systemic remedies in this proceeding  
25 and use the opportunity to come up with  
26 effective mitigations for PG&E's and other  
27 electric utilities' conduct regarding the  
28 facilities in the future.

1           And my understanding from a separate  
2 prehearing conference, of which PG&E attorney  
3 spoke, is that the bankruptcy does not impact  
4 the Commission's police power. And so to the  
5 extent that the Commission is going to do  
6 structural remedies, or impose reporting  
7 requirements, or do things that aren't  
8 necessarily a financial penalty, that that is  
9 not impacted by the bankruptcy proceeding.

10           And so a thing that would be helpful  
11 I feel going forward is if PG&E could  
12 explain, perhaps in a brief due within the  
13 next two weeks, exactly how the bankruptcy  
14 and 1054 requirements impact this proceeding.  
15 So, for example, when does the bankruptcy  
16 court have to have an estimate of what a  
17 claim might be and how solid does that claim  
18 have to be? If PG&E could brief that  
19 subject, let's say within the next two weeks,  
20 and other parties could reply after that,  
21 that might give everybody a better  
22 understanding of exactly how the bankruptcy  
23 proceeding and AB 1054 impact this, and what  
24 things have to be decided quickly and what  
25 things could take longer.

26           So, for example, hypothetically  
27 speaking, if the systemic remedies were more  
28 structural or they were capped at a certain

1 amount, perhaps that part of the proceeding  
2 wouldn't need to be finished so quickly.

3 So I respectfully request that the  
4 Commission seek additional information on  
5 this topic before ruling definitively on the  
6 scope of the proceeding. I'm sorry, that  
7 blows into the schedule a little bit. But I  
8 feel like it is related to the scope and  
9 schedule that PG&E is pretty intertwined.

10 ALJ HOUCK: Anything else?

11 MS. LEE: Thank you, your Honor.

12 ALJ HOUCK: CCUE, please state your  
13 name for the court reporter.

14 MS. KOSS: Rachael Koss, K-o-s-s, on  
15 behalf of CCUE.

16 I want to echo the concerns of PG&E  
17 over including systemic issues in the scope  
18 here. As PG&E mentioned, they are being  
19 addressed in the Wildfire Mitigation Plan  
20 proceeding. They are also being addressed in  
21 the Safety Culture OII.

22 The issue here with respect to 1054  
23 and bankruptcy is that in order for the  
24 insurance fund -- which the IOUs contribute  
25 \$10.5 billion to, and I think PG&E's portion  
26 is about 6.75 billion -- is that the  
27 bankruptcy court has to find by June 30th,  
28 2020 that PG&E has sufficient funds to pay



1 prebankruptcy wildfire claims. Any financial  
2 penalties looking in this proceeding and  
3 other proceedings threatens that timing of  
4 bankruptcy court. And so the impact would be  
5 potentially no insurance fund, which would  
6 harm ratepayers. So that is how the  
7 bankruptcy proceeding impacts this  
8 proceeding.

9 CCUE does not oppose structural  
10 remedies with respect to a larger scope, but  
11 we would offer that pretty much every  
12 potentially culpable manager is now gone from  
13 PG&E, so we would lean on the side of  
14 limiting the scope of this proceeding.

15 And we are open to early briefing of  
16 legal issues. I haven't been a part of any  
17 of the discussions thus far with respect to  
18 those issues or settlement, but we look  
19 forward to participating. Thank you.

20 ALJ HOUCK: Western States Petroleum  
21 Association.

22 MS. RAFII: Thank you, your Honor.  
23 Lillian Rafii for WSPA.

24 So from a ratepayer standpoint, it  
25 is important that the systemic issues remain  
26 within scope. And so WSPA's preference is  
27 that those issues are -- that those issues  
28 remain. They will be within scope for

1 parties to brief, and for the Commission to  
2 make a decision on.

3 ALJ HOUCK: Thank you.

4 Mr. Hill, you had a response to  
5 some...

6 MR. HILL: Yes, your Honor. I really  
7 just wanted to reiterate on an early comment.  
8 Systemic issues are, at least in large part,  
9 being addressed and reviewed in connection  
10 with the Wildfire Safety Plan. There is an  
11 avenue to explore those issues and explore  
12 the corrective actions that could be awarded  
13 as a remedy in this proceeding. Those issues  
14 are, at least in part, being addressed in  
15 connection with the Wildfire Safety Plan.

16 I'm going to ask my co-counsel,  
17 Ms. Wong, to address one of the comments that  
18 was made previously.

19 MS. WONG: With regard to TURN's  
20 request that perhaps PG&E submit briefing to  
21 explain how the bankruptcy --

22 ALJ HOUCK: That was Public Advocates.

23 MS. WONG: I'm sorry, Public Advocates.

24 MS. LEE: No problem.

25 MS. WONG: -- and how AB 1054 affects  
26 the proceedings and ask for a two-week  
27 turnaround time, given that there are a  
28 number of issues in these proceedings that

1 are not quite yet settled, including the  
2 actual dates, we would prefer to talk to the  
3 parties and help explain what the various  
4 issues are. If they would like to have  
5 briefing on this, then we would ask for more  
6 time than two weeks to allow certain dates in  
7 the bankruptcy proceeding to be more settled,  
8 which would allow us to have a better  
9 explanation of what that process looks like  
10 and how the OII would be affected by the  
11 bankruptcy proceedings.

12 ALJ HOUCK: When we get into schedule,  
13 I want to give everyone a chance to finish on  
14 scope. I think it would be fair to say that  
15 you could give, not with exact dates, but  
16 just a brief summary of why the bankruptcy  
17 court is going to need some information  
18 before the end of the year. And I think AB  
19 1054 is fairly clear about what the  
20 implications are if PG&E is not out of  
21 bankruptcy by June 30th of next year. Or you  
22 can do that now, if you would like.

23 MS. WONG: Sure, we can do that now. I  
24 think we could have a more thorough  
25 discussion later as well.

26 But to give you some idea of why the  
27 bankruptcy proceeding is important, in order  
28 to take part with the wildfire fund that has

1    been established by AB 1054, PG&E is required  
2    to emerge from bankruptcy. And in order for  
3    PG&E to emerge from bankruptcy, the claims  
4    need to be more established from the civil  
5    litigation, the various liabilities need to  
6    be established to a more solid --

7           ALJ HOUCK: Prepetition liabilities?

8           MR. HILL: Prepetition liabilities need  
9    to be established to a more solid place so  
10   that PG&E could address those liabilities in  
11   a plan of reorganization that would need to  
12   be approved by the bankruptcy court.

13          ALJ HOUCK: That date is somewhere  
14   roughly in October, late October, early  
15   November?

16          MS. WONG: The claims must be submitted  
17   by October 21st. I think some time in late  
18   October.

19          ALJ HOUCK: Thank you.

20                 Are there any other comments on  
21   scope?

22                 (No response.)

23          ALJ HOUCK: Let's move on to schedule.

24                 Mr. Hill.

25          MR. HILL: Yes, your Honor. We posed a  
26   series of variables in the prehearing  
27   conference statement jointly drafted by PG&E  
28   and SED that affect the schedule. So one

1 we've already discussed I think by all  
2 parties is AB 1054's requirement that PG&E  
3 emerge from bankruptcy. We've discussed  
4 that.

5           The implementation cost of any  
6 corrective actions, depending on how  
7 substantial they are, they might need to be  
8 addressed as part of the bankruptcy  
9 proceedings.

10           And the schedule that PG&E at least  
11 has proposed is one that excludes systemic  
12 issues. I know that your Honor hasn't made  
13 that decision yet, but the schedule that we  
14 posed at least initially would exclude  
15 systemic issues. And it still remains a very  
16 aggressive schedule to hope to accomplish or  
17 to resolve the proceeding in time for the AB  
18 1054 deadline.

19           Now, the wrinkle that I addressed  
20 earlier today is the result of the  
21 conversations this morning to extend that  
22 time to have settlement discussions through  
23 September 30th, and that would be accompanied  
24 by a stay in discovery through  
25 September 30th. That would impact the dates  
26 I think that both parties have proposed in  
27 the prehearing conference statement where  
28 we've suggested opening testimony in the

1 October time frame. That would be impacted  
2 if we do have a discovery stay, and we are  
3 engaged in settlement negotiations.

4 All that to say is it is quite  
5 difficult to craft a schedule in this  
6 proceeding that would resolve, pursuant to  
7 the Commission's rules, if we were to  
8 actually go through a hearing and  
9 post-hearing briefing, et cetera, to resolve  
10 that in time to meet AB 1054 deadline. We  
11 are open to continuing to engage in  
12 conversations with SED and the new parties to  
13 the proceeding, and am interested in hearing  
14 from SED and others as to review on schedule.

15 COMMISSIONER RECHTSCHAFFEN: If your  
16 schedule is hard to meet in the absence of  
17 the stay, it would make it impossible. If we  
18 have a stay in discovery, settlement is not  
19 successful, your schedule is impossible.  
20 There is no way that you can meet the  
21 deadline in 1054.

22 MR. SHER: Commissioner, we don't see a  
23 way to meet this time line, I mean, taking  
24 into account what has happened. And as  
25 Public Advocates stated, there is a need to  
26 get to the bottom of this, make sure it  
27 doesn't happen again. This schedule, while  
28 on paper, I don't see how it can get met.

1           COMMISSIONER RECHTSCHAFFEN: That is  
2 why we want you guys to talk very seriously  
3 about settlement right away. But put that  
4 aside, I can't speak for Judge Houck, you are  
5 calling for a stay in discovery for six weeks  
6 or seven weeks. That makes the process --  
7 pushes it back an additional seven weeks. We  
8 are short on time to begin with under your  
9 schedule. Your schedule is very problematic.  
10 So I -- I'm just commenting that it doesn't  
11 seem to work.

12           MR. SHER: We are taking settlement  
13 very, very seriously.

14           COMMISSIONER RECHTSCHAFFEN: Okay.

15           ALJ HOUCK: What do the parties suggest  
16 the Commission do if we have a deadline of  
17 October 21st to provide something to the  
18 bankruptcy? In the absence of having this  
19 resolved, how do you propose that we come up  
20 with a number to give as a placeholder to the  
21 bankruptcy court? Mr. Sher.

22           MR. SHER: We have been working quite  
23 hard on trying to figure that out. This is  
24 not the approach SED would normally take.  
25 The bankruptcy, AB 1054 have caused things to  
26 go sideways. It is our expectation and  
27 intent to come up with numbers.

28           ALJ HOUCK: By September 30th?

1 MR. SHER: If we can, yes.

2 ALJ HOUCK: By September 30th?

3 MR. HILL: Your Honor, we are engaging  
4 in these settlement negotiations in good  
5 faith. You have indicated the key component  
6 here is monetary penalties, if any, must be  
7 known by the October date, more remedial  
8 measures perhaps on a different track. But  
9 to the extent there is going to be a monetary  
10 component to this, it needs to be worked out  
11 by October. We are engaging seriously in  
12 good faith with SED to try to make that  
13 happen.

14 MS. WONG: Sorry, your Honor, if I  
15 could clarify on one thing. The end of  
16 October date is so that some percentage of  
17 claims is submitted by then, but really we  
18 have until the end of the year to resolve the  
19 monetary penalty side of things before the  
20 bankruptcy proceeding.

21 COMMISSIONER RECHTSCHAFFEN: So your  
22 schedule doesn't talk about -- nothing is  
23 going to be resolved by the end of the year  
24 in your schedule?

25 MS. WONG: No. But one of the issues  
26 we did flag in our statement is that we do  
27 need to have monetary penalties or corrective  
28 actions that require shareholder contribution



1 to be fully resolved by the end of 2019 in  
2 order for them to be included in the  
3 Chapter 11 proceeding.

4 MR. SHER: Part of the difficulty, SED  
5 does not have access to bankruptcy counsel,  
6 so we rely on PG&E and others. The  
7 nonfinancial or the nonpenalty remedies, as  
8 counsel just stated, some of those have  
9 monetary impacts. And it is just not clear  
10 to us how far we can go without PG&E  
11 shareholders bearing those costs and have  
12 them be part of this and be addressed by the  
13 bankruptcy court.

14 ALJ HOUCK: Ms. Morsony.

15 MS. MORSONY: Your Honor, I just wanted  
16 to take this moment in this discussion to  
17 concur with Public Advocates' request for  
18 briefing on this issue. I think this  
19 discussion is demonstrating how complicated  
20 it is.

21 And I really believe that the record  
22 would benefit from a brief from PG&E or its  
23 bankruptcy counsel that goes through the  
24 required dates, what is required by each of  
25 those dates, for example, claims. If the  
26 monetary claims don't need to be finished  
27 October 21st, by what time at the end of the  
28 year? Do they need to be fully thought out

1 and final, or can they be still an estimate  
2 at that time? Are we going for a certain  
3 degree of accuracy, or do they need to be --  
4 or is this just the ultimate liability of the  
5 utility.

6 I think if we can get something on  
7 the record rather than speculating, it would  
8 be very helpful for settlement negotiations  
9 to move along and for a schedule to be  
10 determined.

11 MR. HILL: May I be heard?

12 ALJ HOUCK: Yes.

13 MR. HILL: PG&E would agree to brief  
14 this issue. We agree the record would  
15 benefit from clarity on this. We would ask  
16 for three weeks as opposed to two weeks to  
17 file those briefs, but we are in agreement  
18 that it would be helpful.

19 ALJ HOUCK: So just for clarification,  
20 when we are saying briefing this issue, are  
21 you providing a summary of the status of the  
22 bankruptcy proceeding and what the dates are?  
23 Or what legal issues would you be briefing,  
24 per se, as opposed to be providing a summary?

25 MR. HILL: Our understanding is: What  
26 impact do the bankruptcy proceedings have on  
27 this OII proceeding in terms of the deadlines  
28 that need to be met in the bankruptcy court?

1 How does that impact what we are to do here  
2 in this OII proceeding? That might include a  
3 summary of the status of the bankruptcy  
4 proceedings. But at least I see this going  
5 beyond that to explaining how the bankruptcy  
6 impacts schedule here, the contemplation  
7 penalties here, both monetary and  
8 nonmonetary, and other related issues.

9 ALJ HOUCK: Ms. Lee.

10 MS. LEE: Thank you, your Honor.

11 A question I would hope would be  
12 answered from the briefing is the certainty  
13 of any penalties or monetary amounts that the  
14 bankruptcy court needs. PG&E's proposed  
15 schedule assumes that monetary penalties that  
16 require shareholder contributions are  
17 excluded from this OII.

18 But let's just say hypothetically  
19 that the Commission wants to include them.  
20 Is it adequate by the end of the year to  
21 have, like, an estimate of the monetary  
22 contribution by the shareholders or a cap?  
23 So the nature of the claims that are required  
24 by the end of the year would be something  
25 that I think would benefit the record.

26 ALJ HOUCK: Is Public Advocates a Party  
27 in the bankruptcy?

28 MS. LEE: Yes, your Honor.

1 ALJ HOUCK: Is TURN a Party in the  
2 bankruptcy?

3 MS. MORSONY: Yes.

4 ALJ HOUCK: SED?

5 MR. SHER: We are not a party. We  
6 don't have access to bankruptcy counsel.

7 ALJ HOUCK: Western States Petroleum,  
8 are you a party of the bankruptcy?

9 MS. RAFII: Not that I'm aware of.

10 ALJ HOUCK: CCUE?

11 MS. KOSS: One of CCUE's member unions,  
12 IBEW Local 1245, which represents the  
13 workers, unionized workers at PG&E, is a  
14 Party to the bankruptcy proceeding.

15 ALJ HOUCK: So TURN, CCUE, Public  
16 Advocates do have bankruptcy counsel?

17 MS. MORSONY: Yes, your Honor.

18 ALJ HOUCK: Are there any other  
19 comments on schedule? Ms. Lee.

20 MS. LEE: Your Honor, I would ask that  
21 as this proceeding moves forward that the  
22 Commission keep in mind that responding to  
23 discovery promptly will be really important  
24 for keeping the schedule. And I would  
25 recommend that the Commission consider  
26 something like designating a law and motion  
27 judge to hear any discovery disputes, and  
28 perhaps including an expedited response

1 requirement to any motions to compel so that  
2 the proceeding isn't bogged down by discovery  
3 disputes.

4 MS. MORSONY: I would also request  
5 separately, to the extent that PG&E does  
6 provide a brief on the interplay of  
7 bankruptcy with this proceeding, that other  
8 parties have an opportunity to reply to that  
9 brief.

10 ALJ HOUCK: Mr. Sher.

11 MR. SHER: I don't disagree with that.  
12 At some point though, if we have dueling  
13 bankruptcy counsel and dueling positions, who  
14 do we rely on? But I support the ability to  
15 require.

16 ALJ HOUCK: Any other parties have  
17 comments?

18 (No response.)

19 ALJ HOUCK: We are going to go off the  
20 record for one moment.

21 (Off the record.)

22 ALJ HOUCK: We are going to go back on  
23 the record.

24 So you are meeting next Monday; is  
25 that correct?

26 MR. HILL: Yes, your Honor.

27 ALJ HOUCK: Can you -- well, we are  
28 going to direct you to provide an update by

1 Wednesday of next week on what, if any,  
2 progress has been made with the settlement  
3 discussions.

4 We will take under submission the  
5 issue of whether discovery should or  
6 shouldn't be stayed and address that in a  
7 separate ruling.

8 We also would like when you meet  
9 next week to have an initial discussion on  
10 what legal issues could potentially be  
11 briefed upfront. And when you provide the  
12 update next week to include the status of  
13 whether there is any agreement on briefing,  
14 and also whether and what progress you may be  
15 making on stipulation of facts and additional  
16 issues to be included in the scope of the  
17 proceeding. And that would be, have that  
18 filed and served by August 21st. Mr. Sher.

19 MR. SHER: Your Honor, earlier on I  
20 believe you used the word in turn you would  
21 mandate that we all got together in  
22 settlement. I want to make certain that  
23 parties have the ability to negotiate  
24 individually with PG&E, as necessary.

25 ALJ HOUCK: Yes, follow the process.  
26 But I do want parties to have an opportunity  
27 to have discussions to see where they fit  
28 into any potential settlements. So you are

1 not to ignore other parties.

2 MR. SHER: Understood.

3 ALJ HOUCK: Are there any other issues  
4 the parties want to address today?

5 MR. HILL: None from PG&E, your Honor.

6 MR. SHER: For clarification, your  
7 Honor, you are ordering that PG&E will submit  
8 a brief within three weeks, and parties will  
9 have an opportunity to reply?

10 ALJ HOUCK: That will be addressed in a  
11 separate ruling.

12 MR. SHER: Thank you. Your Honor, just  
13 also, you are more than likely aware this is  
14 not the only OII open with regards to PG&E's  
15 locate and mark and others, which impact the  
16 bankruptcy?

17 ALJ HOUCK: Yes, I'm well aware of  
18 that.

19 Are there any other comments?

20 (No response.)

21 ALJ HOUCK: That conclude the hearing.  
22 We are adjourned. Off the record.

23 (Whereupon, at the hour of 2:21  
24 p.m., this matter having been  
25 concluded, the Commission then  
adjourned.)

26 \* \* \* \* \*

27

28

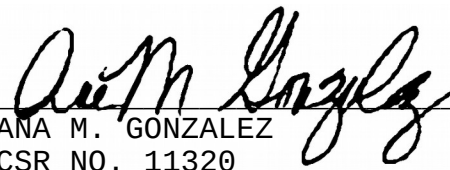
BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE  
STATE OF CALIFORNIA

CERTIFICATION OF TRANSCRIPT OF PROCEEDING

I, ANA M. GONZALEZ, CERTIFIED SHORTHAND REPORTER  
NO. 11320, IN AND FOR THE STATE OF CALIFORNIA, DO  
HEREBY CERTIFY THAT THE PAGES OF THIS TRANSCRIPT  
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I FURTHER CERTIFY THAT I HAVE NO INTEREST IN THE  
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